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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,242	03/03/2004	Christo Brand	EPTD / 52	4768
26875	7590	10/14/2008	EXAMINER	
WOOD, HERRON & EVANS, LLP			DOVE, TRACY MAE	
2700 CAREW TOWER				
441 VINE STREET			ART UNIT	PAPER NUMBER
CINCINNATI, OH 45202			1795	
			MAIL DATE	DELIVERY MODE
			10/14/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/792,242	BRAND, CHRISTO	
	<b>Examiner</b> TRACY DOVE	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 23 July 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-3 and 5-7 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3 and 5-7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

### **DETAILED ACTION**

This Action is in response to the communication filed on 7/23/08. Applicant's arguments have been considered, but are not persuasive. Claims 1-3 and 5-7 are pending. This Action is Non-FINAL.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/23/08 has been entered.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda et al., US 5,354,629 in view of the background section of the present specification and further in view of Rosansky et al., US 4,482,615.

Kuroda teaches a battery having a spiral electrode unit comprising a separator laminated between a cathode and an anode rolled into a spiral shape (abstract). Figure 1 shows a lithium anode 1 with a rectangular anode terminal tab 2 connected to the

anode 1 by tape 3 on both sides (shown in Figure 11). The anode terminal tab is located 180 mm down the 230 mm length of the anode (3:33-40). As shown in Figure 1, anode tab 2 and tape 3 are located above the bottom edge of the anode 1. Figure 2 shows a cathode 4 having a tab 5 and a tape 6.

Kuroda does not explicitly teach a prismatic cell having two long sides and two narrow sides or that a metal wire is extended along the long axis of the anode.

However, the present specification discloses that spiral electrode units are known for use in a prismatic battery. Furthermore, the background section of the present specification (page 3) teaches prismatic cells can be formed by winding or folding an elongated anode and an elongated cathode with a separator there between. Typical chemistry for the prismatic battery is lithium/manganese dioxide. Kuroda teaches a spiral electrode unit and a lithium/MnO<sub>2</sub> battery chemistry (8:1-2). Therefore, one of skill would have been motivated to use the spiral wound lithium/MnO<sub>2</sub> battery unit in a prismatic battery because it is known in the art that spiral wound lithium/MnO<sub>2</sub> units may be accommodated in prismatic shaped batteries.

The background also teaches a metal wire which runs the length of the anode is known (page 3). Furthermore, Rosansky teaches a lithium anode comprising a wire 12 which runs the length of the anode and a tab 14 (Figure 6). The tab can be any conductive metal (2:43-45). A cell not utilizing a lithium anode employing the wire has erratic stability under forced discharge conditions which can result in bulging, venting and even possible cell rupture (3:14-19). Therefore, one of skill would have been motivated to provide the metal wire of Rosansky in the strip anode of Kuroda the

prevent bulging, venting and cell rupture during discharge. Furthermore, the present specification (background) teaches such metal wires are known.

***Response to Arguments***

Applicant's arguments filed 7/23/08 have been fully considered but they are not persuasive. Applicant argues the Kuroda reference fails to disclose any embodiment in which the anode tab is attached to a first side of the anode "without any of said insulation tape overlying said anode tab on said first side". However, Kuroda does teach the claimed invention. Figure 11 shows an anode tab 112 and two pieces of insulating tape 113. The insulating tape 113 on the opposite side of the anode from the anode tab 112 is considered the insulation tape of the claimed invention. Specifically, the claimed invention does not exclude a second insulation tape that overlies the anode tab 112.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracy Dove whose telephone number is 571-272-1285. The examiner can normally be reached on Monday-Thursday (9:00-7:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 25, 2008

/Tracy Dove/

Primary Examiner, Art Unit 1795